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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/995,933	11/28/2001	Christopher L. Casler	CASL01NP	2008

23892            7590            09/05/2003

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EXAMINER

FINEMAN, LEE A

ART UNIT            PAPER NUMBER

2872

DATE MAILED: 09/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/995,933	CASLER, CHRISTOPHER L.
	Examiner Lee Fineman	Art Unit 2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 06 June 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-16 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 06 June 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.                    4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

This Office Action is in response to a response filed 6 June 2003 in paper number 5.

Claims 1-16 are pending.

### ***Drawings***

1. The corrected drawings were received on 6 June 2003. These drawings are acceptable.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2, 4-10, and 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keitoku, U.S. Patent No. 5,036,188 in view of Crimmins, U.S. Patent No. 5,103,108 and Harwood, United Kingdom Patent No. GB 1,500,495 A.

Keitoku discloses audio-visual (e.g. TV or stereo, column 1, lines 14-15) remote controlled retail electronic device (figs. 8 and 9) with a plane transparent portion (2) for an infrared receiver (3) as well as a hemispheric lens (figs. 1-4, 6-7) comprising a lens body (11) made from a material substantially transparent at an infrared wavelength received by the receiver, and being used for increasing the acceptance angle over which the infrared signals are received by the infrared receiver (column 2, lines 30-45).

Keitoku is silent as to the transparent hemispheric lens body being fabricated from a dielectric material, in particular acrylic plastic, having a substantially hemispheric concave inner and convex outer surface, having a substantially flat annular surface connecting the inner and outer surfaces and an adhesive layer provided on the annular surface for securing the lens to a face of the remote-control device. Crimmins teaches a hemispheric lens 162 for receiving and detecting infrared wavelength, made of acrylic plastic with an adhesive layer for securing it to the face of the device (column 6, lines 50-55) as well as a hemispheric lens (190) having a substantially hemispheric concave inner and convex outer surface and having a substantially flat annular surface connecting the inner and outer surfaces lens. It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the lens of Keitoku from a transparent dielectric material, in particular acrylic plastic, and have a substantially hemispheric concave inner and convex outer surface with a substantially flat annular surface connecting the inner and outer surfaces lens as well as an adhesive layer for securing the lens to the face of the device, as suggested by Crimmins, to provide cost savings by using reduced amounts of less expensive materials. Furthermore, it would have been obvious to use a 1/2-inch exterior, 3/8-inch interior diameter lens because those values lie well within a small range one would expect to be associated with structures of the type of Keitoku and Crimmins and such devices would operate in the same manner regardless of size. See *In re Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. Denied, 469 U.S. 83 0, 225 USPQ 232 (1984); MPEP 2144.04.

Keitoku does not explicitly disclose purchasing or selling the hemispheric lens for retrofitting the remote-controlled electronic retail entertainment device. Harwood teaches a

hemispheric lens attachment (figure) that is added (retrofit) to a known device (page 1, lines 75-78) to increase acceptance angles of the device (page 1, lines 23-26). It would have been obvious to one of ordinary skill in the art to retrofit the known device (figs. 8 and 9) of Keitoku with a lens like that of Keitoku in view of Crimmins as set forth above, as suggested by Harwood, to increase the acceptance angles of the device. Additionally, it would also have been obvious to obtain the add-on lens by a retail purchase or sale because that is a conventional method of obtaining add-on devices. Furthermore, with regard to claim 9, it would also have been obvious to include instructions for such an add-on lens assembly because it is conventional to include instructions to properly add the element which would result in "instructing" of the end-user as set out in claim 9.

3. Claims 3 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keitoku, in view of Crimmins and Harwood, as applied to claims 1 and 9 above, and further in view of Haddock, U.S. Patent No. 4,912,880 or Takahashi, et al., U.S. Patent No. 4,921,330.

Keitoku, in view of Crimmins and Harwood, as applied to claims 1 and 9 above discloses the claimed invention except for the adhesive layer comprising double-sided adhesive tape. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use double-sided adhesive tape to secure a hemispheric lens of Keitoku in view of Crimmins and Harwood, as applied to claims 1 and 9 above, because the lens and face would have to be secured to one another in some way and double-sided adhesive tape is a well known structure for connecting optical elements, the patents to Haddock et al, see especially column 9, lines 31-35, and Takahashi et al, see especially column 4, lines 59-64, being merely illustrative in that regard.

***Response to Arguments***

4. Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lee Fineman whose telephone number is (703) 305-5414. The examiner can normally be reached on Monday - Friday 7:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Dunn can be reached on (703) 305-0024. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4900.

LAF  
August 21, 2003

  
MARK A. ROBINSON  
PRIMARY EXAMINER